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Patent

BCM File No. OTA 02-036
Attorney Docket No. 124169-1010

DECLARATION FOR PATENT APPLICATION

As a below-named inventor, I declare that:

My residence, post office address and citizenship are as stated next to my name. I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled

Anti-Infective Endotracheal Tube

the specification of which

is attached hereto

was filed on September 17, 2003, as United States Patent Application Number 10/664,519.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

U.S. Provisional Patent Application No.: 60/411,177
Filed: September 17, 2002

I claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

NONE

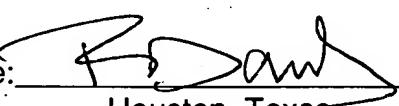
I declare that all statements made in this declaration of my own knowledge are true, and that all statements made on information and belief are believed to be true. I made these

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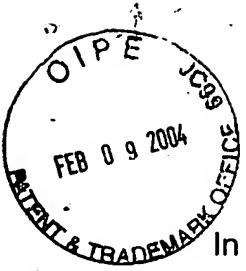
statements with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of the First Inventor: Rabih O. Darouiche, M.D.

Inventor's Signature:  Date: 2/6/04
Residence: Houston, Texas Citizenship: USA
Post Office Address: Center for Prostheses Infection
1333 Moursund Ave., Suite A221
Houston, Texas 77030

Full Name of the Second Inventor: Randall A. Prince, Ph.D.

Inventor's Signature:  Date: 2/6/04
Residence: Houston, Texas Citizenship: USA
Post Office Address: University of Houston Pharmacy School
1441 Moursund Ave., Suite 307
Houston, Texas 77030



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Attorney Docket No. 124169-1010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Rabih O. Darouiche, et al.

U.S. App. Ser. No.: 10/664,519

Customer No.: 37058

Filing Date: September 17, 2003

Examiner: Unknown

Group No.: 3737

Invention: ANTI-INFECTIVE ENDOTRACHAEL TUBE

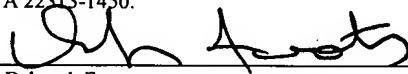
MS Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING

Express Mail No. EV322135232US

Date of Deposit: 2/9/04

This paper and fee are being deposited with the U.S. Postal Service and sent via "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: MS Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Typed name: Deborah Foote

APPOINTMENT OF ATTORNEYS UNDER 37 CFR § 3.71

Dear Sir:

As an officer of the assignee of the entire interest in the subject patent application, I appoint the following members of the firm of GARDERE WYNNE SEWELL LLP:

Tim Headley	(Reg. No. 31,765)
Kenneth R. Glaser	(Reg. No. 46,715)
Carol M. Nielsen	(Reg. No. 37,676)
Robert E. Holthus	(Reg. No. 50,347)
Jennifer S. Sickler	(Reg. No. 36,005)
Thomas C. Wright	(Reg. No. 47,189)

as its attorneys with full power of substitution to prosecute this application and transact all business in the Patent and Trademark Office.

Pursuant to 37 CFR § 3.73, I have attached a copy of the Assignment from the inventor(s).

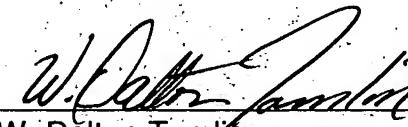
Patent

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Attorney Docket No. 124169-1010

Please direct all future correspondence and telephone calls regarding this application to:

Tim Headley
GARDERE WYNNE SEWELL LLP
1000 Louisiana, Suite 3400 Telephone: 713.276.5320
Houston, Texas 77002-5007 Facsimile: 713 276.6320

I certify that the Assignment document filed with the application or filed subsequent to the filing date of the application, has been reviewed. I certify that, to the best of my knowledge and belief, title is with Baylor College of Medicine.


W. Dalton Tomlin
W. Dalton Tomlin
Senior Vice President and General
Counsel
Baylor College of Medicine

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Attorney Docket No. 124169-1010

ASSIGNMENT

We, Rabih O. Darouiche, M.D., a citizen of the USA, residing in Houston, Texas, and Randall A. Prince, Ph.D., a citizen of the USA, residing in Houston, Texas, (herein called "Assignors") are the co-inventors of a certain new and useful invention entitled "ANTI-INFECTIVE ENDOTRACHEAL TUBE" (herein called the "Invention").

Filing Date: September 17, 2003

Serial No.: 10/664,519

Assignors are employees (herein called "College Personnel") of BAYLOR COLLEGE OF MEDICINE, a non-profit corporation duly organized and existing under and by virtue of the laws of the State of Texas, and having a principal place of business at Texas Medical Center, One Baylor Plaza, Houston, Texas 77030 (herein called "Assignee");

Assignors represent that they are the sole and only inventors of the Invention and that the Invention was made, conceived and/or reduced to practice while Assignors were serving in their positions as College Personnel of Assignee;

Assignee is desirous of acquiring and Assignors are desirous of assigning to Assignee all rights to said Invention under the terms and provisions of the policy on Inventions and Patents adopted by the Board of Trustees of Baylor College of Medicine ("Baylor's Patent Policy");

This assignment is preparatory to a contemplated further licensing by Assignee of the Invention to a corporation or other entity for commercialization of the Invention;

Assignors acknowledge that they are assigning their right as part of their obligations as College Personnel, their use of the facilities of Assignee to make the Invention and his/her desire to receive consideration under the Baylor Patent Policy;

Assignors, for and in consideration of the benefits to be accorded, including payments to be made to Assignors under Baylor's Patent Policy, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, assigns to Assignee, under the terms and conditions of Baylor's Patent Policy, all of Assignors' rights throughout the world in and to:

1. Said Invention;

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2. United States of America patent application on said Invention filed concurrently;
3. All applications for patent or like protection on said Invention that have now been or may in the future be filed by Assignors or their legal representatives, whether in the United States of America or any other country or place anywhere in the world;
4. All patents and like protection that have now been or may in the future be granted on said Invention to Assignors or their legal representatives, whether in the United States of America or in any other country or place anywhere in the world;
5. All substitutions for and divisions, continuations, renewals, reissues, extension, and the like of said applications and patents and like grants, including without limitation, those obtained or permissible under past, present and future law or statutes;
6. All rights of action on account of past, present and future unauthorized use of said Invention and for infringement of said patents and like protection;
7. The right to Assignee to file in its name applications for patents and like protection for said Invention in any country or countries foreign to the United States; and
8. All international rights or priority associated with said Invention, applications, patents and like protection.

Assignors covenant that Assignors, their heirs, legal representatives, assigns, administrators, and executors will, at the expense of Assignee, its successors and assigns, execute all papers and perform such other acts as may be reasonably necessary to give Assignee, its successors and assigns, the full benefit of this Assignment.

This assignment of the Invention is intended to be part of an integrated plan to transfer by means of license or otherwise the Invention to a corporation or other entity for commercialization of the Invention pursuant to the terms of the Baylor Patent Policy. All payments made to, or equity received by, Assignors from any corporation or other entity commercializing the Invention shall be in exchange for Assignors' assignment of the Invention hereunder and pursuant to Assignors' rights under the Baylor Patent Policy.

The U.S. Commissioner of Patents and Trademarks is hereby requested to issue U.S. Letters Patent in accordance with this Assignment.

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Attorney Docket No. 124169-1010

The Patent Offices throughout the world are requested to issue Letters Patent in accordance with this Assignment.

EXECUTED on the date indicated below opposite our signatures.

DATE: 2/6/04

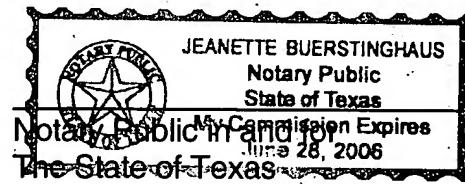

Rabih O. Darouiche, M.D.

THE STATE OF TEXAS

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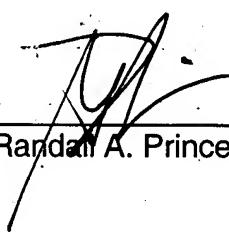
COUNTY OF HARRIS

This instrument was acknowledged by Jeanette Buerstinghaus, on the
6 day of February 2004.



My Commission Expires: June 28, 2006

DATE: 2/6/04

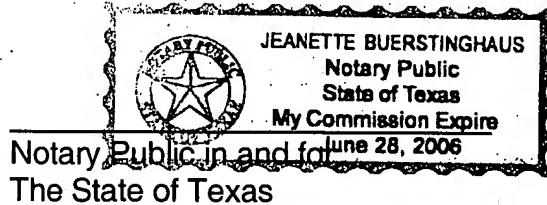

Randall A. Prince, Ph.D.

THE STATE OF TEXAS

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COUNTY OF HARRIS

This instrument was acknowledged by Jeanette Buerstinghaus, on the
6 day of February 2004.



My Commission Expires: June 28, 2006